



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No.25893 of 2024 (O&M)
Date of Decision: 06.11.2024**

Surinder Pal

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present:- Mr. Tarundeep Kumar, Advocate for the petitioner.

Mr. Saurav Verma, Addl. A.G., Punjab for the respondents.

MAHABIR SINGH SINDHU, J.

Present writ petition has been filed under Article 226 of the Constitution, *inter alia*, for issuance of a writ in the nature of *Certiorari* for quashing of the impugned order dated 31.08.2024 (P-1), whereby petitioner was transferred from Division No.2, Amritsar to Division No.2, Pathankot.

(2) In brief, petitioner joined the services on 14.01.2008 with Punjab Water Supply and Sewerage Board as Junior Draftsman (Civil). Thereafter, in

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the year 2009, he was appointed as Junior Draftsman on regular basis in the Department of Water Supply and Sanitation. Petitioner joined on the said post w.e.f. 30.07.2010 and presently, he is working as Draftsman in Division No.2, Amritsar, from where he has been transferred to Division No.2, Pathankot vide impugned order dated 31.08.2024. Hence, the present petition.

(3) Contends that petitioner is single parent, having three small children, who are studying in School and maintaining elderly father, who is suffering from heart ailments and except petitioner, no one is there to look after them. Further contends that petitioner submitted representation dated 01.09.2024 (P-3) with the request to cancel his transfer and/or to adjust him against a vacant post in Tarn Taran Division or Batala. Also contends that transfer order is not issued on administrative grounds; rather petitioner has been victimized. Lastly contends that impugned order is in violation of the transfer policy dated 23.04.2018.

(4) Heard learned Counsel for the petitioner and perused the paper-book.

(5) During the course of hearing, learned State Counsel has produced a copy of speaking order dated 24.10.2024, which is taken on record as Mark 'X'.

Perusal of the aforesaid speaking order reveals that request of petitioner was considered by the competent authority; but did not find favour.



(6) Law is well settled that transfer policies are mere guidelines for internal working of the department. This Court, after relying upon the judgments of Hon'ble the Supreme Court, reported as (i) **Shilpi Bose (Mrs.) and others Versus State of Bihar and others**, 1991 Supp (2) SCC 659; (ii) **Union of India and others Versus S.L. Abbas**, (1993) 4 SCC 357 and (iii) **State of U.P. and others Versus Gobardhan Lal**, (2004) 11 SCC 402, while deciding CWP No.13925 of 2021, titled as "**Ravinder Kumar and others Versus State of Punjab and others**" vide order dated 28.07.2021, in para 21, *inter alia*, came to the conclusion that: -

"Transfer policy is merely a set of guidelines for the authorities concerned, without there being any legal backing; thus, the same is not legally enforceable under Article 226 of the Constitution except in the circumstances mentioned in para 10 (supra)."

(7) For reference, the exceptional circumstances enumerated in para 10 of the aforesaid order dated 28.07.2021 can be recapitulated as under:-

- (i) *where the transfer orders were made in violation of the Service Rules or;*
- (ii) *based on mala fide;*
- (iii) *detrimental to the career of the employees;*
- (iv) *any other analogous reason(s).*

(8) Again in para 12 of the above order, it was observed that "*It is for the competent authority to decide as to who should be transferred; where to be transferred; and when to be transferred. Even if a transfer order is issued de hors the transfer policy or the policy has been ignored by an officer,*



the recourse open for the employee is to approach the higher authority. In case the superior authority comes to the conclusion that there is a violation of the transfer policy or the subordinate officer has disregarded the order passed by the higher officer without any justification, he may expose himself to the departmental action as per law.”

(9) As a result of the above discussions and for smooth functioning of the administration, instead of interfering with transfer matters in routine, it would be appropriate to leave this arena to the competent authority, until the action complained has caused manifest injustice to the aggrieved person and/or non-interference by the Court may result into failure of justice.

(10) In the present case, concededly the petitioner has remained in his home district for more than “fourteen years”. The contention that order is in violation of the transfer policy is also not acceptable in view of the fact that transfer policies are just guidelines and not legally enforceable. The petitioner has failed to substantiate that he has suffered any element of manifest injustice and or non-acceptance of his prayer will result into failure of justice in any manner. Also noteworthy that competent authority, after due consideration, has rejected the representation of petitioner while passing the speaking order dated 24.10.2024 (Mark ‘X’).

(11) In view of above, this Court does not find any ground to interfere with the impugned order dated 31.08.2024 (P-1).

(12) Accordingly, the present petition is dismissed.

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(13) Needless to say that petitioner may again approach the competent authority for his grievance, if so advised and this order be not construed as a hindrance to that effect.

Pending application(s), if any, shall also stand disposed off.

6th November, 2024
Gagan

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes